

REMARKS

How we got to where we are

5 This patent application was filed August 21, 1998, and thus has been pending for more than nine and a half years.

The application was filed with 168 claims. On April 6, 1999 the United States Patent and Trademark Office found that all 168 claims were novel and possessed an inventive step (were unobvious). A copy
10 of this Examination Report is attached for convenient reference.

In reliance upon this finding by the USPTO, on September 22, 1999 the applicant entered the national stage in the United States. It is noted that pursuant to 37 CFR Section 1.496, last sentence, the USPTO was required and continues to this day to be required to advance this application “out of turn for
15 examination.”

In Fall of 2002 the applicant appealed a final rejection to the Board of Patent Appeals and Interferences. In Winter of 2004 the applicant again appealed to the Board of Patent Appeals and Interferences.
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At the time of the second appeal, the status of the claims was as follows:

- 1-64 canceled
- 65-123 allowed
- 25 ● 124-128 canceled
- 129 allowed
- 130-136 canceled
- 137-140 allowed
- 141-162 canceled
- 30 ● 163-166 allowed
- 167 canceled

- 168 allowed
- 169-208 appealed
- 209-214 canceled

5 Claims 177, 178, and 196 have been canceled in the present amendment. It is noted that claims 169, 173, 179, 182, 184, 185, 187, 191, 197, 203, and 204 have each been amended in the present amendment as suggested by the Board at page 11, namely by removing parentheses.

The oral hearing and the Board's decision

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An oral hearing was held before the BPAI on December 19, 2007. The undersigned attended the oral hearing; the Examiner did not. On March 19, 2008 the BPAI decided the appeal.

The appealed claims that remain pending at this time (after the cancelation of claims 177, 178, and
15 196) are claims 169-176, 179-195, and 197-208. Importantly, every ground for rejection stated by the Examiner with respect to these claims 169-176, 179-195, and 197-208 has been ***reversed*** by the Board of Patent Appeals and Interferences.

What should happen next

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The applicant has received and responded to seven Office Actions:

- August 30, 2000
- October 3, 2000
- 25 ● February 14, 2001
- October 10, 2001
- April 10, 2002
- April 10, 2003
- November 18, 2003

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It is suggested that this is enough.

It is again noted that every claim in the application as filed was found to be novel and unobvious by the USPTO on April 6, 1999.

- 5 It is requested that the Examiner mail a Notice of Allowance containing claims 65-123, 129, 137-140, 163-166, and 168 (each of which has already been allowed by the Examiner) and also containing claims 169-176, 179-195, and 197-208 (all rejections of which have been reversed by the Board of Appeals).
- 10 The Examiner is respectfully reminded that the USPTO is required, pursuant to Rule 496, to advance this application "out of turn for examination." Thus it is respectfully requested that the Notice of Allowance be mailed immediately.

Respectfully submitted,

15 /s/

Carl Oppedahl

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